

**DECISION**

*General*  
29657  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548**

**FILE:** B-215881**DATE:** October 24, 1984**MATTER OF:** Rowe Industries**DIGEST:**

1. Protest alleging that agency's acceptance of alternate product is improper is denied since procuring agency is responsible for determining the acceptability of awardee's alternate item and record does not show that agency's determination that awardee's alternate item was acceptable was unreasonable.
2. Allegation that RFP was defective because it did not contain a first article testing requirement is untimely since allegation concerns apparent solicitation impropriety which, under Bid Protest Procedures, must be filed prior to the closing date for receipt of proposals.

Rowe Industries (Rowe) protests the award of a contract to Connector Technology Corporation (CTC) for a special purpose electrical cable assembly under request for proposals (RFP) No. DLA400-84-R-0860 issued by the Defense Logistics Agency (DLA). Rowe contends that CTC is not an approved source for the item and that the product offered by the firm will not satisfy the government's requirements. Rowe also complains that the RFP was defective since it did not contain a requirement for first article testing in order to determine whether an alternate product was acceptable.

We deny the protest in part and dismiss it in part.

The RFP identified Sanders Associates, Inc. P/N 1045984G1 or Rowe P/N 3R6000 as the electrical cable assemblies which the government had evaluated and determined to be acceptable. The RFP, however, allowed offerors to submit alternate products. Offerors were required to indicate in their proposals whether they were offering the exact product identified in the RFP or an alternate. If an alternate product was offered, sufficient data was to be furnished to allow the government to determine the acceptability of the item.

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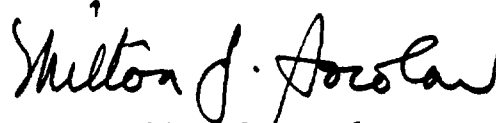
In its proposal, CTC indicated that it was offering the exact product requested in the solicitation. Apparently, CTC was formerly FKC Engineering Company, a firm which CTC believed manufactured the cable assembly for Sanders Associates. As a result, CTC believed it appropriate to characterize its own product as an "exact" item. The contracting officer, however, requested that CTC identify its cable assembly by its own name and part number and submit a complete data package. The technical data package was reviewed by government engineering support personnel who also contacted Sanders Associates regarding the use and acceptability of the CTC product. After review, the CTC cable assembly was determined to be an acceptable alternate product. Since CTC's unit price was low, the contract was awarded to CTC.

Our decisions recognize that the procuring agency is responsible for evaluating the data supplied by an offeror and ascertaining if it provides sufficient information to determine the acceptability of the offeror's item. Automated Production Equipment Corporation, B-210476, Mar. 6, 1984, 84-1 C.P.D. ¶ 269. We will not disturb the technical determination by the agency unless it is shown to be unreasonable. The protester bears the burden of affirmatively proving its case and the fact that the protester does not agree with the agency's technical evaluation does not in itself render the evaluation unreasonable. Panasonic Industrial Company, B-207852.2, Apr. 12, 1983, 83-1 C.P.D. ¶ 379.

The record shows that the cable assembly offered by CTC was reviewed by appropriate government engineering personnel and was determined to be an acceptable alternate product. While Rowe questions whether CTC's product, although manufactured to meet applicable design requirements, will actually fulfill the system and application requirements for which it is intended, we are unable to conclude that the technical evaluation regarding its acceptability was unreasonable. Accordingly, since CTC's electrical cable assembly was determined to be an acceptable alternate, we have no basis to object to the award to CTC.

Rowe's allegation that the RFP should have included a first article testing requirement to insure that any alternate product offered was satisfactory for its

intended use is untimely. Our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(1) (1984), require that a protest based upon an alleged solicitation impropriety which is apparent prior to the closing date for receipt of proposals be filed prior to that date. Rowe did not raise this allegation until its comments to the agency report. Accordingly, this matter will not be considered on the merits.

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Acting Comptroller General  
of the United States